



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

July 24, 1962

Mr. R. L. Coffman
Administrator
Texas Employment Commission
Austin, Texas

Opinion No. WW-1392

Re: Whether the Texas Employment Commission is empowered by Senate Bill 1, Acts of the 57th Legislature, First Called Session, 1961, chapter 62, page 287, and Senate Bill 28, Acts of the 55th Legislature, First Called Session, 1957, chapter 27, page 77, to use the unexpended funds to construct parking facilities on certain real estate without further legislation.

Dear Mr. Coffman:

You have requested an opinion from this office upon the question of whether the Texas Employment Commission is empowered by the provisions of Senate Bill 1, Acts of the 57th Legislature, First Called Session, 1961, chapter 62, page 287, and Senate Bill 28, Acts of the 55th Legislature, First Called Session, 1957, chapter 27, page 77, to use certain unexpended funds to construct parking facilities on certain real estate without the necessity of further legislation.

Senate Bill 28 provides in Section 1 that:

"All funds heretofore appropriated to the Texas Employment Commission out of amounts credited to this state's account in the Federal Unemployment Trust Fund under Section 903 of the Social Security Act for the purchase of land and construction of buildings are hereby authorized to be used in the purchase of land and construction of a Texas Employment Commission State Headquarters office building, including parking space and facilities, built-in equipment and furnishing; and in addition thereto there is hereby appropriated from the same account, subject to the same conditions applicable to appropriations heretofore made therefrom, the additional sum of Seven Hundred Thousand Dollars (\$700,000.00) to accomplish such purposes." (Emphasis added)

Senate Bill 1, the General Appropriations Bill for the current biennium, provides in the departmental appropriation to the Texas Employment Commission that:

"Any unexpended balances in the amounts heretofore appropriated in House Bill No. 133, Chapter 385, Acts, Fifty-fifth Legislature, Regular Session, 1957, and in Senate Bill No. 28, Chapter 27, Acts, Fifty-fifth Legislature, First Called Session, 1957, and in House Bill No. 4, Chapter 23, Acts, Fifty-sixth Legislature, Third Called Session, 1959, for the purchase of land for the construction of a State headquarters office building, including equipment and furnishings for the Texas Employment Commission, out of amounts credited to this State's account in the Federal Unemployment Trust Fund under Section 903 of the Social Security Act as of August 31, 1961, are hereby reappropriated for the same purposes for the biennium beginning September 1, 1961, and the Texas Employment Commission is authorized to pay all claims against the prior appropriations of funds which are now barred or may be barred by the operation of Article 4357, Revised Civil Statutes."
(Emphasis added)

Senate Bill 28, quoted heretofore, was, in the words of the caption of the bill, an ". . . Act to expedite the building program of the Texas Employment Commission by re-allocating funds heretofore appropriated, . . ." In Senate Bill 28 the Legislature authorized the use of the funds specified therein by the Texas Employment Commission for the purchase of land, the construction of an office building, built-in equipment and furnishings, and parking space and facilities.

After the passage of Senate Bill 28 by the 55th Legislature, the 56th Legislature subsequently enacted House Bill 4, Acts of the 56th Legislature, 1959, Third Called Session, chapter 23, page 442, the General Appropriations Bill, and in the departmental appropriation to the Texas Employment Commission is found the following provision:

"Any unexpended balances in the amounts heretofore appropriated in House Bill No. 133, Chapter 385, Acts, Fifty-fifth Legislature, Regular Session, 1957, and in Senate Bill No. 28, Chapter 27, Acts, Fifty-fifth Legislature, First Called Session, 1957, for the purchase of land for the construction of a State headquarters office building, including equipment and furnishing for the Texas Employment Commission, out of amounts credited to this State's account in the

Federal Unemployment Trust Fund under Section 903 of the Social Security Act as of August 31, 1959, are hereby reappropriated for the same purposes for the biennium beginning September 1, 1959." (Emphasis added)

In the General Appropriations Bill for the current biennium, Senate Bill 1, the pertinent portion being set forth heretofore, the 57th Legislature once again reappropriated the unexpended balance of the funds appropriated in Senate Bill 28 in almost the identical language used in House Bill 4.

While in House Bill 4 and Senate Bill 1 there is no express reference made to the use of the unexpended funds for the construction of parking facilities, we are of the opinion that the omission of a reference to "parking facilities" in the phrase found in both House Bill 4 and Senate Bill 1, ". . . for the purchase of land for the construction of a State headquarters office building, including equipment and furnishings for the Texas Employment Commission. . . ." does not constitute a restriction upon these funds being used to construct parking facilities, but rather that this phrase found in House Bill 4 and Senate Bill 1 is merely a descriptive phrase further identifying Senate Bill 28. Such being the case the provisions of Senate Bill 28 control as to the authorized purposes for expenditure of these funds.

This is further borne out by the fact that the Legislature specified in Senate Bill 28 the general purposes for which certain appropriations to the Texas Employment Commission could be expended, and of these general purposes the purchase of the land, the erection of the building, and its furnishing and equipping have been accomplished. While there remains an unexpended balance in the initial appropriation, which has twice been reappropriated by the Legislature to the Texas Employment Commission, there remains of the initial general purposes set forth in Senate Bill 28, only the construction of parking facilities.

It would logically follow and we are of the opinion that the Legislature, by periodically reappropriating the unexpended fund, is continuing to make the unexpended funds available for such purposes as the construction of parking facilities, and further legislation is unnecessary for the construction of such parking facilities.

Mr. R. L. Coffman, page 4 (WW-1392)

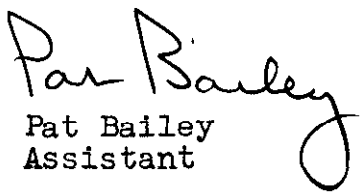
SUMMARY

The Texas Employment Commission is empowered by virtue of Senate Bill 1, Acts of the 57th Legislature, First Called Session, 1961, Chapter 62, page 287, and Senate Bill 28, Acts of the 55th Legislature, First Called Session, 1957, Chapter 27, page 77, to use certain unexpended funds appropriated to the Texas Employment Commission to construct parking facilities and without the necessity of further legislation at this time.

Yours very truly,

WILL WILSON
Attorney General of Texas

By


Pat Bailey
Assistant

PB:wb

APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman
Frank Booth
Charles Lind
Woodrow Curtis
Robert Lewis

REVIEWED FOR THE ATTORNEY GENERAL

BY: Leonard Passmore